

# STATE OF COLORADO

## COLORADO DEPARTMENT OF HEALTH

*Dedicated to protecting and improving the health and environment of the people of Colorado*

4300 Cherry Creek-Dr. S. Laboratory Building  
Denver, Colorado 80222-1530 4210 E. 11th Avenue  
Phone (303) 692-2000 Denver, Colorado 80220-3716  
(303) 691-4700



Roy Romer  
Governor

Patricia A. Nolan, MD, MPH  
Executive Director

June 29, 1993

David L. Sell  
McMichael, Benedict & Multz  
1580 Lincoln Street, Suite 900  
Denver, CO 80203

CERTIFIED MAIL NO.: P 299 096 537

RE: Notice of Violation and Cease and Desist Order  
Rico Development Corporation  
CDPS Permit No.: C0-0029793  
Dolores County, Colorado

Dear Sir or Madam:

Enclosed is a signed copy of the Notice of Violation and Cease and Desist Order issued in this matter. The basis for the notice is defined under the Findings of Fact.

This action could result in the imposition of civil penalties by the Department as provided by 25-8-608, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.). The maximum civil penalty allowed by the statute is \$10,000 per day of violation.

Should you have any questions, please contact this office at (303) 692-3590.

Sincerely,

Robert J. Shukle, Chief  
Permits and Enforcement Section  
WATER QUALITY CONTROL DIVISION

RS/ai

cc: Michael Towne, Rico Development Corporation ~~Amoco Production Company~~  
Jim Horn, WQCD  
EPA, Region VIII  
Local Health Department  
MS-3

BEFORE THE DEPARTMENT OF HEALTH

DIVISION OF ADMINISTRATION

STATE OF COLORADO

---

NOTICE OF VIOLATION AND CEASE AND DESIST ORDER

---

IN THE MATTER OF:     RICO DEVELOPMENT CORPORATION  
                          CDPS PERMIT NO. CO-0029793  
                          DOLORES COUNTY, COLORADO

---

TO:   Rico Development Corporation

Pursuant to the authority vested in the Division of Administration of the Colorado Department of Health ("the Division") by 25-8-301 to 308, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.), which authority has been delegated to me by the Executive Director of the Department, I hereby make the following Findings of Fact and issue the following Notice of Violation and Cease and Desist Order:

FINDINGS OF FACT

1. Rico Development Corporation ("Rico") operates the Rico project, which is an inactive, underground metals mine ("the mine") in Rico, Colorado.
2. The mine is the subject of Colorado Discharge System Permit No. CO-0029733 ("the permit"), which was effective on June 13, 1988 and has been extended past its expiration date of December 31, 1992 pending permit renewal.
3. Under the terms and conditions of the permit, wastewater associated with the St. Louis tunnel is authorized to be discharged, following treatment, from outfall 002 into the Dolores River.
4. Pursuant to the requirements of the Permit, Rico is required to sample and analyze the effluent being discharged at outfall 002 at least monthly. Rico submitted monthly reports to the Division regarding the levels of pollutants in the effluent which included the following data:

| Reporting Period | Pollutant                                   | Reported Concentration |
|------------------|---|------------------------|
| 11/92            | Total Recoverable Silver<br>30-day average  | 0.0134 lbs/day         |
| 11/92            | Total Recoverable Silver<br>daily maximum   | 0.020 lbs/day          |
| 12/92            | Total Recoverable Silver<br>30-day average  | 0.0093 lbs/day         |
| 12/92            | Total Recoverable Silver<br>daily maximum   | 0.018 lbs/day          |
| 6/92             | Total Recoverable Zinc<br>30-day average    | 14.5 lbs/day           |
| 6/92             | Total Recoverable Cadmium<br>30-day average | 0.33 lbs/day           |
| 6/92             | Total Recoverable Cadmium<br>daily maximum  | 0.60 lbs/day           |
| 8/92             | Total Recoverable Cadmium<br>30-day average | 0.08 lbs/day           |
| 9/92             | Total Recoverable Lead<br>30-day average    | 0.015 mg/l             |
| 9/92             | Total Recoverable Lead<br>daily maximum     | 0.03 mg/l              |
| 3/92             | Total Recoverable Copper<br>30-day average  | 0.035 mg/l             |
| 3/92             | Total Recoverable Copper<br>daily maximum   | 0.075 mg/l             |

5. The Dolores River is "state waters" as defined by 25-8-103(19), C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.).

7. Outfall 002 constitutes a "point source" as defined by 25-8-103(14), C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.).

### NOTICE OF VIOLATION

You are hereby notified that the facts stated above constitute violations of Part I.A of the Permit as follows:

The 30-day average loading of total recoverable silver in the effluent of 0.0134 lbs/day in November 1992 and 0.0093 lbs/day in December 1992 exceed the 30-day average loading allowed in the permit of 0.0081 lbs/day.

The daily maximum loading of total recoverable silver in the effluent of 0.020 lbs/day in November 1992 and 0.018 lbs/day in December 1992 exceed the daily maximum loading allowed in the permit of 0.016 lbs/day.

The 30-day average loading of total recoverable zinc in the effluent of 14.5 lbs/day in June 1992 exceeds the 30-day average loading allowed in the permit of 9.5 lbs/day.

The 30-day average loading of total recoverable cadmium in the effluent of 0.33 lbs/day in June 1992 exceeds the 30-day average loading allowed in the permit of 0.12 lbs/day.

The daily maximum loading of total recoverable cadmium in the effluent of 0.60 lbs/day in June 1992 exceeds the daily maximum loading allowed in the permit of 0.24 lbs/day.

The 30-day average loading of total recoverable cadmium in the effluent of 0.08 lbs/day in August 1992 exceeds the 30-day average loading allowed in the permit of 0.076 lbs/day.

The 30-day average concentration of total recoverable lead in the effluent of 0.015 mg/l in September 1992 exceeds the 30-day average concentration allowed in the permit of 0.009 mg/l.

The daily maximum concentration of total recoverable lead in the effluent of 0.03 mg/l in September 1992 exceeds the daily maximum concentration allowed in the permit of 0.018 mg/l.

The 30-day average concentration of total recoverable copper in the effluent of 0.035 mg/l in March 1992 exceeds the 30-day average concentration allowed in the permit of 0.03 mg/l.

The daily maximum concentration of total recoverable copper in the effluent of 0.075 mg/l in March 1992 exceeds the daily maximum concentration allowed in the permit of 0.06 mg/l.

### CEASE AND DESIST ORDER

Based upon the foregoing Findings of Fact and Notice of Violation, and pursuant to the provisions of 25-8-605, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.), I hereby order you to:

1. immediately take whatever measures necessary to cease and desist violating the Water Quality Control Act, 25-8-101 to 703, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.), the Permit, and regulations promulgated thereto;

2. submit to the Division, in writing, within 15 days after issuance of this order, a detailed statement of the measures you have taken or plan to take to achieve immediate and long term compliance with paragraph 1 of this order;

3. submit to the Division, in writing, within 10 days after issuance of this order a statement of your intent to comply herewith;

Pursuant to section 25-8-603, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.), you are required to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. Section 603 also provides that the recipient of a Notice of Violation may request the Division to conduct a hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division. Both the answer and the request for hearing, if any, shall be filed no later than 30 days after issuance of this order. The filing of an answer does not constitute a request for hearing. Absent such a request, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent proceeding. You are also advised that any person who violates any provision of any permit issued under 25-8-101 to 703, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.), or any provision of 25-8-101 to 703, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.) or any final Cease and Desist Order or Clean-Up Order shall be subject to a civil penalty of not more than \$10,000 per day for each during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution of state waters if such discharge is made in violation of any permit issued under 25-8-101 to 703, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.), or in violation of any Cease and Desist Order or Clean-Up Order issued by the Division. You are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters.

For further clarification of the rights of recipients of Notices of Violation, including the potential imposition of penalties and possible criminal liability, you are advised to consult the Water Quality Control Act, sections 25-8-101 to 703, C.R.S. (1989 Repl. Vol. 11A and 1992 Supp.)

Issued at Denver, Colorado, this 29<sup>th</sup> day of June, 1993.

COLORADO DEPARTMENT OF HEALTH  
Division of Administration

A handwritten signature in cursive script, appearing to read "J. David Holm", written over a horizontal line.

J. David Holm

Director

Water Quality Control Division

# STATE OF COLORADO

## COLORADO DEPARTMENT OF HEALTH

*Dedicated to protecting and improving the health and environment of the people of Colorado*

4300 Cherry Creek Dr. S. Laboratory Building  
Denver, Colorado 80222-1530 4210 E. 11th Avenue  
Phone (303) 692-2000 Denver, Colorado 80220-3716  
(303) 691-4700



Roy Romer  
Governor

Patricia A. Nolan, MD, MPH  
Executive Director

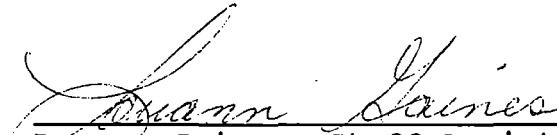
### CERTIFICATE OF MAILING

This is to certify that a signed copy of the NOTICE OF VIOLATION CEASE AND DESIST ORDER IN THE MATTER OF RICO DEVELOPMENT CORPORATION, PERMIT NO: CO-0029793, DOLORES COUNTY, COLORADO was deposited in the mail and on this 29TH day of JUNE, 1993.

CERTIFIED MAIL NO: P 299 096 537

Addressed as:

David L. Sell  
McMichael, Benedict & Multz  
1580 Lincoln Street, Suite 900  
Denver, CO 80203

  
Louann Gaines, Staff Assistant